



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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**Summary of and Response to Comments on the Industrial Wastewater  
Proposal for Biotech  
9-22-05**

**General Comments:** Several comments were generally supportive of the proposed industrial wastewater regulations as an effort to streamline and clarify Biotech facility environmental responsibilities. One biotechnology industry comment specifically liked the performance-based approach in the proposed regulations. Many comments, on the other hand, took issue with the proposed effluent limitations and monitoring requirements. Negative comments about the numeric standards centered on the proposed standard for mercury that would be less stringent than many existing local limits. Many comments noted the serious health impacts from mercury exposure and questioned how the proposed 80 parts per billion (ppb) standard meshed with the Massachusetts Executive Office of Environmental Affairs' Zero Mercury Strategy.

**17.03(2) Applicability: Biotech Facilities that Discharge to the MWRA Service Area**

**Comment:** Two comments mentioned that the applicability of proposed regulation 314 CMR 17.00 should be expanded to biotechnology operations located in the Massachusetts Water Resources Authority jurisdiction for the two reasons:

1. The vast majority of biotechnology companies are located within the MWRA service area;
2. Two sets of standards based on geographic location will confuse new companies seeking to site new facilities in Massachusetts.

**Response:** MassDEP agrees that the requirements: 17.05 - General Requirements, 17.08 - Grading of Industrial Wastewater Treatment Systems; 17.09 - Staffing Requirements for Industrial Wastewater Treatment Systems; 17.10 - Operation and Maintenance Requirements for Industrial Wastewater Treatment Systems; 17.11 - Recordkeeping for Industrial Wastewater Treatment Systems; and 17.12 - Reporting; should be applied to the biotech sector throughout Massachusetts. Consequently, MassDEP will propose an amendment to this regulation to expand applicability of this regulation to biotechnology facilities that discharge to the Massachusetts Water Resources Authority service area.

This information is available in alternate format. Call Donald M. Gomes, ADA Coordinator at 617-556-1057.

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## **17.05(2) General Requirements: Cage Washing**

**Comment:** One comment suggested that the prohibition on the discharge of water-borne animal bedding from cage washing operations under 314 CMR 17.05(2) should be clarified to allow incidental cage bedding remaining after sweeping the cage “empty.” .

**Response:** The Department agrees with this suggestion and has added the following definition for “water-borne animal bedding from cage washing operations” to clarify this issue:

Water-borne animal bedding from cage washing operations means bedding waste entrained from cage washing operations. For the purposes of this regulation, water-borne animal bedding from cage washing operations does not include incidental quantities of cage washing solids that may be entrained in wastewater after the cages have been swept “clean” prior to washing operations.

## **17.06 Effluent Limits and Requirements and 17.07 Monitoring Requirements**

**Comment:** Ten comments mentioned dissatisfaction with the proposed numeric standards in 314 CMR 17.06 and either explicitly or by implication the monitoring requirements in 314 CMR 17.07. Most comments focused on the proposed mercury limit as being too high, 80 times higher than MWRA’s mercury limit. A couple of comments noted that the numeric standard for biological oxygen demand (900 mg/l of BOD<sub>5</sub>) could be burdensome because POTWs are designed to treat BOD and a paying a surcharge to do so is frequently more cost effective for business. Other comments wanted more clarity in the total toxic organic standard and monitoring and analysis requirements. One comment was concerned with the exemptions the proposed regulations granted to biotech facilities that are in conformance with 314 CMR 17.00. A couple of comments disputed the methodology used to derive the limits, which was described in the background document. Finally, a number of comments objected to MassDEP’s proposed limits and the basis for selecting those limits, despite that the proposed rule would have continued to allow local POTWs to enforce more stringent requirements for both local limits for all dischargers and in individual local permits.

**Response:** In response to the significant adverse comments received, MassDEP will not move forward with the proposed statewide effluent limits (and monitoring requirement to measure these limits) for biotechnology companies at this time. The department will move forward with adopting the rest of the industrial wastewater provisions for biotechnology companies (as modified by the responses to comment that follow) based on the support for, and benefits expected from, these rules. In a separate evaluation process, MassDEP will further consider and seek additional stakeholder input on establishing statewide effluent limits, including consideration of establishing a 1 ppb statewide mercury limit.

In the interim, biotechnology companies will continue to need to meet existing federal, state, and local standards for all regulated contaminants, including mercury. These standards include local POTW general discharge limits, individual local permit limits, and federal categorical standards, as applicable. Also in the interim, the Department will continue its existing forbearance policy by not requiring biotechnology facilities or other facilities that discharge to the sewer to obtain a state sewer discharge permit unless the facility requests such a permit because it wishes to

discharge treated hazardous wastewater without needing to obtain a state hazardous waste treatment facility license. DEP will also retain its authority to control biotechnology and other industrial sewer discharges by establishing appropriate standards in POTW NPDES permits, as necessary.

### **17.11 Recordkeeping**

**Comment:** To increase clarity, one comment suggested replacing the word “records” with “documents” in 314 CMR 17.11(1), under the recordkeeping section.

**Response:** MassDEP agrees that substituting the word “documents” is more appropriate than the word “records” in this provision since this provision refers to all applicable permits, facility plans, treatment system plans, equipment specifications, and operation and maintenance manuals. Consequently, in response, the word “records” is replaced with “documents” at 314 CMR 17.11(1).